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Arizona Corporation Commission

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF U S WEST  
COMMUNICATIONS, INC.'S  
COMPLIANCE WITH SECTION 271  
OF THE TELECOMMUNICATIONS  
ACT OF 1996.

DOCKET NO. T-00000A-97-0238

ATTORNEY GENERAL'S REPLY  
RE: COMMENTS ON PUBLIC INTEREST,  
CONVENIENCE, AND NECESSITY

Attorney General Janet Napolitano submits the following reply to Qwest Corporation's ("Qwest") response to her comments on the public interest, convenience and necessity. Rather than address the serious consumer fraud concerns raised by the Attorney General's comments, Qwest's response essentially argues that the interests of Arizona consumers in Qwest's entry into the long distance market have no place in these proceedings.

Qwest first argues that based on the Commission's Procedural Order of June 12, 2000, the Attorney General's comments are untimely. Qwest claims that the Attorney General's comments should have been filed by September 19, 2001, even though the State's consumer fraud lawsuit was not filed until October 15, 2001. In any event, the Procedural Order creates a framework for the parties for further proceedings in this matter, but it does not limit the rights of non-parties, such as the Attorney General to present their comments. The Commission has always recognized the importance of non-party consumer comments to its proceedings, *see* R14-3-105(C), A.A.C., and it certainly may consider the comments of the Attorney General as the public officer responsible for protecting consumers under the Arizona Consumer Fraud Act, A.R.S. § 44-1521- 1534.

Qwest next contends that the consumer fraud issues raised in the Attorney General's comments

1 are irrelevant to these Section 271 proceedings. Qwest takes great pains to distinguish "old" Qwest from  
2 "new" Qwest, local exchange markets from long distance markets, and hired outside telemarketers from  
3 employees, but Qwest fails to address the fundamental relevance of its marketing practices to consumer  
4 choice and business competition.

5 Finally Qwest argues that the State's consumer fraud issues are being "fully considered" in the  
6 Superior Court. Response at 5. Although Qwest represents to the Commission in this proceeding that  
7 "the Superior Court will explore and evaluate the merits" of the State's lawsuit and that the State's  
8 allegations are "hotly contested," *id.* at 5-6, in the Superior Court, Qwest has argued that the lawsuit  
9 should be dismissed, because some of the products and services that Qwest is marketing are subject to  
10 tariffs filed with the Commission and because the Commission is the appropriate agency to address the  
11 State's consumer fraud issues, rather than the Superior Court.

12 Deceptive marketing practices undermine the value to consumers of competition and are unfair  
13 to competing carriers. Qwest's attempt to evade responsibility and accountability for its marketing  
14 practices in this or any other forum makes these issues even more troubling. The Attorney General  
15 therefore urges the Commission not to ignore the serious consumer fraud concerns raised in her  
16 comments and to withhold a favorable Section 271 recommendation until Qwest demonstrates that it  
17 has resolved those concerns.

18 RESPECTFULLY SUBMITTED this 14 day of January, 2002.

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20   
21 JANET NAPOLITANO  
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